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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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Hironori Sumitomo

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SIDLEY AUSTIN LLP  
717 NORTH HARWOOD  
SUITE 3400  
DALLAS, TX 75201

EXAMINER

AGGARWAL, YOGESH K

ART UNIT

PAPER NUMBER

2622

DATE MAILED: 08/10/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 09/942,893	<b>Applicant(s)</b> SUMITOMO ET AL.	
	<b>Examiner</b> Yogesh K. Aggarwal	<b>Art Unit</b> 2622	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 22 May 2006.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-7 and 13-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-7 and 13-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

***Response to Arguments***

1. Applicant's arguments filed 05/22/2006 have been fully considered but they are not persuasive.

**Examiner's response:**

2. Applicant argues with regards to claims 1 and 13 that CPU 55 is not the controller that controls the image pick up element in digital camera. The Examiner respectfully disagrees. The claim recites an image taking apparatus. The digital camera and the synthesizer are read as the image taking apparatus, so CPU 30 (figure 6) as taught in Kawaoka controls the image pick up element. An image taking apparatus is a broad term and does not include only a digital camera.

3. Applicant argues that because in response to one depression of the shutter start button multiple images are taken for the same object. The Examiner respectfully disagrees. The claim recites "... to pick up a plurality of images different in photographing condition in response to a shutter start command". The claim requires at least one shutter command to take multiple images. Kawaoka meets these limitations as multiple images are taken in response to at least one shutter command. The claim does not require only one shutter start command. Therefore in response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., in response to only one shutter start command) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

5. Claims 1, 3, 4, 13, 15 and 16 are rejected under 35 U.S.C. 102(e) as being anticipated by Kawaoka et al. (US Patent # 6,801,251).

[Claims 1 and 13]

Kawaoka et al. teaches an image taking apparatus (figures 6-17), comprising an image pick-up element (13) which picks up a plurality of images different in photographing condition (different photographing conditions are read as scene of entrance, scene of cake cutting etc. , col. 11 line 65-col. 12 line 13), an image memory (56) which temporarily stores said plurality of images picked up by said image pick-up element (col. 13 lines 9-16, figure 17 step 92). Kawaoka teaches that a synthesis area number N representing the order in which the images are synthesized with the synthesis areas is set (col. 13 lines 5-8) and an image represented by the image data corresponding to the synthesis area number N is synthesized with the N-th synthesis area (col. 13 lines 29-32) and therefore reads on an image-number-specifying device (55) which specifies the number of images to be used for creating a composite image. Kawaoka further teaches that all the images are stored in a memory 56 after transferring from a memory card and then images that are to be synthesized are selected from among said plurality of images stored in the memory 56 (col. 13 lines 16-24). Kawaoka teaches that one frame of an image which is used

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for synthesizing a composite image is determined for each of the scenes while each frame of an image is being displayed on the display device 29 of the digital camera (col. 12 lines 20-35) and an image composer which creates said composite image by composing images of said number of images specified by said image-number specifying device (col. 13 lines 40-48).

[Claims 3 and 15]

The maximum number of images that can be specified by the image-number-specifying device used for creating a composite image that can be stored in the memory 56 cannot exceed the maximum number of images that the memory card can store because the capacity of the card is full. For example, if the number of images that a memory card can store is 4 then the maximum number of images specified for creating a composite image cannot exceed 4 because that's the maximum the memory can store.

[Claims 4 and 16]

Kawaoka teaches a display device for displaying images sequentially (col. 13 lines 22-24).

### ***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 2 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kawaoka (US Patent # 6,801,251) in view of Shen et al. (US Patent # 6,122,411).

[Claims 2 and 14]

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Kawaoka teaches the limitations of claim 1 but fails to teach “wherein the number of images to be stored in said image memory is decided by capacity of said image memory and image size”.

However Shen et al. teaches that the number of images to be stored in said image memory is decided by capacity of said image memory and image size (col. 4 lines 16-35).

Therefore taking the combined teachings of Kawaoka and Shen it would have been obvious to one skilled in the art at the time of the invention to have been motivated to have the number of images to be stored in said image memory be decided by capacity of said image memory and image size in order to use the memory efficiently. The benefit of doing so would be to control the utilization of memory space in such a way that the memory space can be used efficiently and in a cost-effective manner.

8. Claim 5, 6, 17 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kawaoka (US Patent # 6,801,251) in view of Okauchi et al. (US Patent # 5,907,353).

[Claims 5, 6, 17, 18]

Kawaoka fails to teach a selector for specifying one of photographing modes including a mode, which gives priority to quality of image, and a mode, which gives priority to speed and a controller for automatically setting the number of images to be stored in said image memory depending on a specified photographing mode.

However Okauchi teaches a selector (figure 1, element 5) for specifying one of photographing modes like a ‘high quality mode’ and a ‘normal quality mode’ (col. 4 lines 28-36), which would inherently require it to give priority to higher quality during ‘high quality mode’ and priority to speed during ‘normal quality mode’ because the number of images to be synthesized are lesser and a controller for automatically setting the number of images to be

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stored in said image memory depending on a specified photographing mode (col. 9 lines 21-32, col. 9 lines 52-62) (Either 4 or 9 images can be specified depending upon a focus evaluation mode as shown in figure 4) in order to obtain an image with higher quality than that obtained in the normal mode by extracting one or a plurality of images from an object image and synthesizing the extracted images.

Therefore taking the combined teachings of Okauchi and Shen it would have been obvious to one skilled in the art at the time of the invention to have been motivated to have a selector for specifying one of photographing modes including a mode which gives priority to quality of image and a mode which gives priority to speed and a controller for automatically setting the number of images to be stored in said image memory depending on a specified photographing mode in order to obtain an image with higher quality than that obtained in the normal mode by extracting one or a plurality of images from an object image and synthesizing the extracted images.

9. Claims 7 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kawaoka (US Patent # 6,801,251), Okauchi (US Patent # 5,907,353) and in further view of Shen et al. (US Patent # 6,122,411).

[Claims 7 and 19]

Kawaoka in view of Okauchi teach the limitations of claim 6 but fails to teach “wherein the number of images to be stored in said image memory is the maximum number of images that said image memory can store when said mode which give priority to quality of image is specified”.

However Shen et al. teaches a condition when the high resolution mode is specified (corresponding to a mode which gives priority to the quality of image) and there is not enough space to take any more high resolution pictures (maximum number of images that said image memory can store for the 'high resolution mode') but there is space for storing at least one more low resolution picture. When this condition is reached the camera automatically switches to a low-resolution mode after storing the maximum number of images in the high-resolution mode (col. 3 lines 59-67, col. 4 lines 1-35).

Therefore taking the combined teachings of Kawaoka, Okauchi and Shen it would have been obvious to one skilled in the art at the time of the invention to have been motivated to have the number of images to be stored in said image memory being the maximum number of images that said image memory can store when said mode which give priority to quality of image is specified in order to utilize the memory space efficiently. The benefit of doing so would be to store both low and high-resolution images (corresponding to different number of pixels) in the memory as long as there is space available in the memory as taught in Shen (col. 3 lines 60-63).

10. Claim 20 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kawaoka (US Patent # 6,801,251).

[Claim 20]

Kawaoka teaches that one frame of an image which is used for synthesizing a composite image is determined for each of the scenes while each frame of an image is being displayed on the display device 29 of the digital camera. Image data, which is not used for synthesizing is being deleted from the image storage file in response to an inputted command (col. 12 lines 20-35). The Examiner notes that by selecting the frames for synthesizing a composite image and deleting the



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other frames, a number of images are selected for synthesizing. It would be obvious to one skilled in the art that a user would have to select a representative frame from among the frames stored and issue a delete command for other commands in order to have an image that is likable to the user for a given composite image.

### ***Conclusion***

11. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Yogesh K. Aggarwal whose telephone number is (571) 272-7360. The examiner can normally be reached on M-F 9:00AM-5:30PM.

12. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vivek Srivastava can be reached on (571)-272-7304. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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13. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

YKA  
July 30, 2006



VIVEK SRIVASTAVA  
PRIMARY EXAMINER